

**LYNCHBURG CITY COUNCIL**  
**Agenda Item Summary**

MEETING DATE: **May 13, 2003**

AGENDA ITEM NO.: 10

CONSENT:

REGULAR: **X**

CLOSED SESSION:  
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Conditional Use Permit (CUP) – 2010 Wiggington Road**

RECOMMENDATION: Approval of the requested CUP.

SUMMARY: Michael & Cheryl Davis are petitioning for a Conditional Use Permit at 2010 Wiggington Road to allow the operation of a bed & breakfast for up to six (6) guests in an R-1, Single-Family Residential District. The Planning Division (PD) recommended approval of the CUP because:

- Petition agrees with the Comprehensive Plan, which recommends a Low Density Residential Use for the subject property.
- Petition agrees with Zoning Ordinance in that a bed & breakfast is a permitted use in an R-1, Single-Family Residential District upon approval of a Conditional Use Permit by the City Council.
- Petition proposes the use of an existing structure for use as a bed & breakfast that should not be detrimental to the neighborhood.

Section 35.1-15(f) of the Zoning Ordinance states: "In approving a conditional use permit City Council may impose any conditions which it deems necessary or appropriate."

PRIOR ACTION(S):

April 23, 2003: Planning Division recommended approval of the CUP.  
Planning Commission recommended approval (6-0, with one member absent) of the CUP with the following conditions:

1. The petitioner shall submit to the Lynchburg Building Commissioner for approval certification from a professional architect or engineer, licensed in Virginia, that the structure is adequate to accommodate the six (6) guests requested by the CUP. Lacking this certification, the number of guests shall be restricted to five (5), in accordance with the regulations of the building code.

FISCAL IMPACT: N/A

CONTACT(S):

Rachel Flynn / 847-1508, ext. 253  
Tom Martin / 847-1508, ext. 226

ATTACHMENT(S):

- Resolution
- PC Report
- PC minutes
- Site plan

REVIEWED BY: lkp

## RESOLUTION

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO MICHAEL AND CHERYL DAVIS FOR USE OF THE PROPERTY AT 2010 WIGGINGTON ROAD AS A BED AND BREAKFAST, SUBJECT TO CERTAIN CONDITIONS.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG That the petition of Michael and Cheryl Davis for a Conditional Use Permit for use of the property at 2010 Wiggington Road as a Bed and Breakfast for up to six (6) guests, be, and the same is hereby, approved, subject to the following condition.

1. The petitioner shall submit to the Lynchburg Building Commissioner for approval, certification from a professional architect or engineer, licensed in Virginia, that the structure is adequate to accommodate the six guests requested by the CUP. Lacking this certification, the number of guests shall be restricted to five, in accordance with the regulations of the building code.

Adopted:

Certified:

\_\_\_\_\_  
Clerk of Council

088L

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**To:** Planning Commission  
**From:** Planning Division  
**Date:** April 23, 2003  
**Re:** **CONDITIONAL USE PERMIT (CUP): 2010 Wiggington Road**

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**I. PETITIONER**

Michael & Cheryl Davis, 2010 Wiggington Road, Lynchburg, VA 24502

**Representative:** Cheryl Davis, 2010 Wiggington Road, Lynchburg, VA 24502

**II. LOCATION**

The subject property is a tract of about 4.2 acres located at 2010 Wiggington Road.

**Property Owners:** Michael & Cheryl Davis, 2010 Wiggington Road, Lynchburg, VA 24502

**III. PURPOSE**

The purpose of this petition is to allow the use of an existing structure as a three (3) room bed & breakfast with up to six (6) guests in an R-1, Single-Family Residential District.

**IV. SUMMARY**

- Petition agrees with the Comprehensive Plan which recommends a Low Density Residential Use for the subject property.
- Petition agrees with the Zoning Ordinance in that a bed & breakfast is a permitted use in an R-1, Single -Family Residential District upon approval of a Conditional Use Permit by the City Council.
- Petition proposes the use of an existing structure for use as a bed & breakfast that should not be detrimental to the neighborhood.

**The Planning Division recommends approval of the CUP petition.**

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**V. FINDINGS OF FACT**

1. **Comprehensive Plan.** The Lynchburg *Comprehensive Plan* recommends a Low Density Residential Use for the subject property. Low Density Residential areas are dominated by single-family detached housing with densities of up to four (4) dwelling units per acre. Other uses such as private and institutional uses are also appropriate if they are compatible in scale with single-family homes.
2. **Zoning.** The subject property was annexed into the City in 1976. The existing R-1, Single-Family Residential zoning was established in 1978 with the adoption of the current Zoning Ordinance.

In the instance of a request for a bed & breakfast, there are two separate codes that regulate the proposed use – Zoning and Building. Section 35.1-73.1 of the Zoning Ordinance deals with the development standards for a bed & breakfast. The Zoning Ordinance stipulates that R-1 property can be used for a bed & breakfast for not more than three (3) rooms and not more than two (2) persons per room, under the management of the occupant of the dwelling.

The BOCA Statewide Building Code also regulates the change of use of a structure. The Building Code considers a change of use to a bed & breakfast to be comparable to use as a hotel or motel and allows a maximum of five (5) occupants. The CUP petition as submitted requests permission for six (6) guests as permitted by the Zoning Ordinance while the Building Code would allow a maximum of five (5) occupants. There is a provision for a professional architect or engineer to evaluate the structure as being adequate to accommodate a greater number of occupants than specified by the Building Code. Lacking this certification the Building Code would take precedence over the Zoning Ordinance and the more restrictive figure of five (5) occupants would apply. The petitioner will need to pursue relief from the Building Code through the appropriate mechanism as determined by the Inspections Division.

3. **Board of Zoning Appeals (BZA).** The Zoning Official has determined that no variances will be needed for the use of the existing residence as a bed & breakfast.
4. **Surrounding Area.** There have been no items requiring City Council approval in the immediate area.

5. **Site Description.** The subject property is bounded to the north and west by single-family residential uses and to the east and south by vacant land. The existing residence is a 1-½ story brick structure on a well landscaped lot.
  6. **Proposed Use of Property.** The purpose of the CUP is to allow the use of an existing structure as a bed & breakfast in an R-1, Single-Family Residential District.
  7. **Traffic and Parking.** The City's Traffic Engineer had no comments of concern regarding the use of the existing structure as a bed & breakfast. Section 35.1-25, Off-Street Parking and Loading of the Zoning Ordinance requires one (1) space for each room used for the purpose of a bed & breakfast. A total of three (3) parking spaces will be required. The existing circular driveway is adequate to fulfil this requirement.
  8. **Storm Water Management.** A storm water management plan will not be required because there will be no disturbed areas.
  9. **Impact.** The proposed use of the property as a bed & breakfast is considered to be compatible with the existing R-1 zoning and the residential character of the surrounding area. The primary use of a bed & breakfast is as a single-family residence. Rooms in the residence may be offered to guests on a short-term basis for compensation. The Zoning Ordinance stipulates that the resident shall be the proprietor of the proposed bed & breakfast, as will be the case with the subject petition.

The usual area of concern for a bed & breakfast is the potential for parking areas to have an adverse impact on adjacent properties. All parking associated with the bed & breakfast is proposed to be on the existing circular driveway. The use of the existing driveway for parking should minimize any adverse impacts and will allow the use to be compatible with the residential area as required by the *Comprehensive Plan*.
  10. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on April 1. Comments related to the proposed use were minor in nature and have or will be addressed by the developer prior to final site plan approval.
  11. **Conditions.** According to Section 35.1-15 (f) of the Zoning Ordinance, the Planning Commission or City Council may impose any conditions deemed necessary of appropriate in approving a CUP.
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#### VI. PLANNING DIVISION RECOMMENDATION

**Based on the preceding Findings of Fact, the Planning Commission recommends to the City Council approval of the petition of Michael & Cheryl Davis for a conditional use permit at 2010 Wiggington Road to allow the operation of a bed & breakfast in an existing residence for up to six (6) guests in an R-1, Single-Family Residential District subject to the following condition.**

1. **The petitioner shall submit to the Lynchburg Building Commissioner for approval certification from a professional architect or engineer, licensed in Virginia, that the structure is adequate to accommodate the six guests requested by the CUP. Lacking this certification, the number of guests shall be restricted to five, in accordance with the regulations of the building code.**

This matter is respectfully offered for your consideration.

William T. Martin  
City Planner

pc: Mr. L. Kimball Payne, III, City Manager  
Mr. Walter C. Erwin, City Attorney  
Ms. Rachel O. Flynn, Director of Community Planning & Development  
Mr. Bruce A. McNabb, Director of Public Works  
Mr. Robert D. DeJarnette, Fire Marshal  
Mr. J. Lee Newland, Director of Engineer  
Mr. Gerry L. Harter, Traffic Engineer

Mr. Karl Cooler, Building Official  
Mr. Arthur L. Tolley, Zoning Official  
Mr. Robert S. Fowler, Zoning Official  
Ms. Cheryl Davis, Petitioner/Representative  
Mr. Michael Davis, Petitioner

## VII. ATTACHMENTS

- 1. Vicinity Zoning Pattern**  
(see attached map)
- 2. Vicinity Proposed Land Use**  
(see attached map)
- 3. Site Plan**  
(see attached site plans)

THESE MINUTES HAVE NOT BEEN REVIEWED NOR APPROVED BY THE PLANNING COMMISSION

Petition of Michael and Cheryl Davis for a Conditional Use Permit at 2010 Wiggington Road for the use of an existing structure as a bed and breakfast with up to three (3) rooms in an R-1, Single-Family Residential District.

Mr. Tom Martin, City Planner, explained the petition to the Planning Commission. Mr. Martin said according to the Zoning Ordinance there could be up to six guests in this R-1, Single-Family Residential area. However, he said, according to the BOCA Code, the structure is limited to five guests unless it is certified as structurally sound by a licensed Engineer or Architect. He said that the bed and breakfast as proposed should have little to no impact on the surrounding area, and the Planning Division recommends approval of the Conditional Use Permit.

Ms. Cheryl Davis, 2010 Wiggington Road, represented the request. Ms. Davis said their target group would be parents of local college students. She said they have a large yard and adequate parking for five guests. She said they would serve breakfast and dinner by request.

Commissioner Pulliam asked Ms. Davis how many total bedrooms were in the home.

Ms. Davis responded that there were four bedrooms in the house.

Commissioner Moore asked if there was adequate parking already on site.

Ms. Davis said that six or seven cars could park on their circular driveway with enough room for cars to drive past.

Chair Dahlgren asked Ms. Davis if she had talked to the neighbors. He asked if there were any future plans for their home in addition to the bed and breakfast.

Ms. Davis said she had spoken with the neighbors and had no opposition to their request. She said they currently have no other plans for their home. Ms. Davis explained that they had considered serving dinner in the future, and was aware that they would need to get additional approval from the Planning Commission and City Council if they wanted to pursue those plans.

Commissioner Flint said this was a nice location for a bed and breakfast.

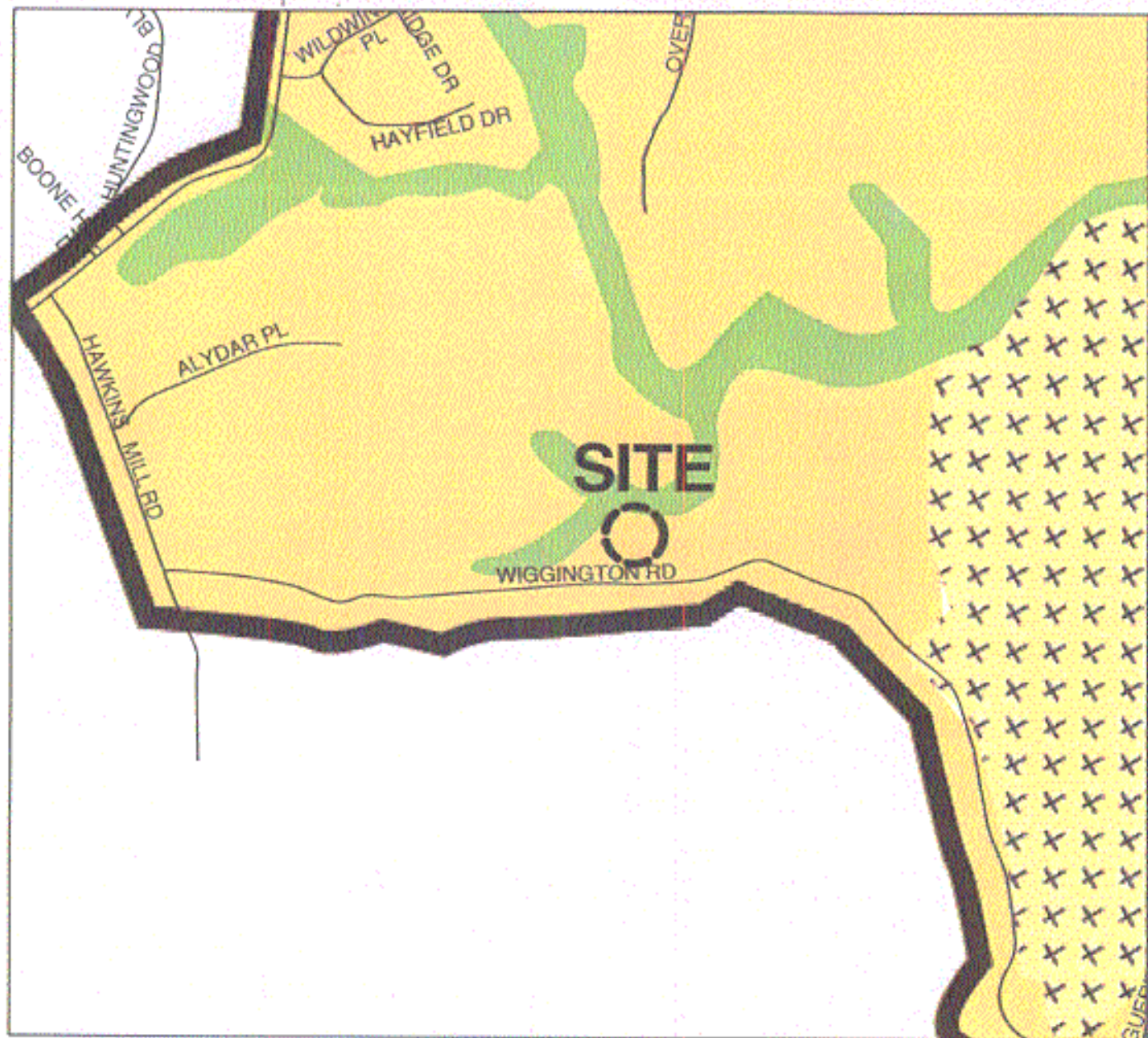
Commissioner Moore commented that usually parking problems were associated with projects such as this one, but it looked like those parking issues are taken care of.

After discussion, Commissioner Pulliam made the following motion, which was seconded by Commissioner Flint and passed by the following vote:

“That the Planning Commission recommends to the City Council approval of the petition of Michael & Cheryl Davis for a conditional use permit at 2010 Wiggington Road to allow the operation of a bed & breakfast in an existing residence for up to six (6) guests in an R-1, Single-Family Residential District subject to the following condition:

1. The petitioner shall submit to the Lynchburg Building Commissioner for approval certification from a professional architect or engineer, licensed in Virginia, that the structure is adequate to accommodate the six guests requested by the CUP. Lacking this certification, the number of guests shall be restricted to five, in accordance with the regulations of the building code.”

AYES:	Dahlgren, Echols, Flint, Moore, Pulliam, Wilkins	6
NOES:		0
ABSTENTIONS:		0



# **BREEZY KNOLL B&B 2010 WIGGINGTON ROAD LAND USE PLAN**





2010 Wiggington Road  
Val. Map # 214-08-004  
Conditional Use Request  
Petitioner: Michael & Cheryl Davis



200 ft Radius

